(1)

Court, U.S.
F I L E D

96 450 MAY 20 1996

OFFICE OF THE CLERK

No.

In The
Supreme Court of the United States

October Term 1996
HUGH J. GILLEN,

Petitioner,

vs.

CITY OF BOSTON, BOSTON FIRE DEPARTMENT
ATTORNEY ALLYSON HALEY,

Respondents.

Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth District

PETITION FOR A WRIT OF CERTIORARI

Hugh J. Gillen
Pro Se
50 Cherry Street
Somerville, MA 02144
(617) 625-7079

13 pp

QUESTIONS PRESENTED

1. Is it not true that all cities of the United States of America must have adequately manned fire apparatus in order to protect the people of this nation?

2. All Fire Departments have civil service examinations based on general knowledge and a booklet distributed by the National Underwriters Fire Manual which all Fire Departments follow. This manual supplies guidelines for storing hazardous chemicals and the manning of fire apparatus including the correct number of firefighters on each piece of equipment. If the firefighting equipment is not manned properly is the fire department not remiss in performing their duty?

LIST OF PARTIES

The parties to the proceedings below were the petitioner, Hugh J. Gillen, the plaintiff and the respondents, the City of Boston, the Boston Fire Department, represented by Attorney at Law Allyson Haley.

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The petitioner, Hugh J. Gillen, respectfully prays that a writ of certiorari issue to review the judgement and opinion of the United States Court of Appeals for the First Circuit, entered in the above-entitled proceeding on May 9, 1996.

OPINIONS BELOW

The opinion of the Court of Appeals for the First

District date May 9, 1996, is reprinted in the appendix hereto, p. 1a.

STATEMENT OF JURISDICTION

Jurisdiction of the District Court was invoked under Section 1 of the Fourteenth Amendment to the Constitution of the United States of America, without mentioning it, particularly referring to the words "...nor shall any state deprive any person of life, liberty, or property". The Boston Fire Department deprived the citizens of Boston of their safety when the department allowed its commissioner to refuse to promote 12 lieutenants to replace the 12 lieutenants who recently left the department for various reasons. The commissioner did not have proper justification for his actions and placed the lives of the citizens of Boston in jeopardy thus disobeying the 14th Amendment of the Constitution of the United States by not having an adequately manned Fire Department for the safety of the city of Boston.

STATUES INVOLVED

Amendment XIV, Section 1

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein

they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of the law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

A. Introduction

The Petition concerns the dismissal of Hugh J. Gillen's complaint against the city of Boston and it's Fire Commissioner, Chief Martin Pierce.

Firefighter Hugh J. Gillen interposed suit against the city of Boston for the arbitrary and capricious denial of lieutenancy in the Boston Fire Department after 25 years of service. The Fire Commissioner was not thinking of the safety of the citizens of Boston, but of his own dictatorial authority. The Fire Commissioner stated at a meeting between the Firefighters Union and the Fire Department to discuss a pay raise that as long as he was commissioner he would never promote Hugh J. Gillen to an officer position. This commissioner was later in his career indited for transferring a firefig[illegible]ter for refusing to contribute to the Mayor of Boston's political campaign and was forced to resign from

the Fire Department.

B. **Facts**

On September 20, 1972, the Civil Service list for the Boston Fire Department listed 12 vacancies for promotion to lieutenancy. This list was published every two years. The commissioner only appointed seven lieutenants. Hugh J. Gillen was to be appointed as the tenth lieutenant. Mr. Gillen wrote a letter to the commissioner stating that the safety of the citizens of Boston would be at risk if the remaining vacancies were not occupied. Mr. Gillen reminded the commissioner that he was duty bound by law, as the 14th Amendment affirms to protect the citizens of Boston.

The commissioner retaliated to Mr. Gillen's letter by ordering him to face a hearing with him an other officers of the Boston Fire Department. At this hearing, Mr. Gillen was represented by attorney by the name of Kaplan. Mr Kaplan informed Mr. Gillen that the commissioner wanted him to seek psychiatric counseling with a psychiatrist. Mr. Gillen stated that he would be willing to see a psychiatrist. Mr. Gillen's lawyer informed the commissioner that Mr. Gillen was willing to see a psychiatrist. The commissioner then informed Mr. Gillen that he wanted him to see the Fire Department medical doctor who would place Mr. Gillen under the care of a physiatrist for as long as it

took to get me "better". I would get my full pay every week even if it took three years or more of counseling.

Under these conditions, Mr. Gillen refused. Mr. Gillen felt that he was being judged by the commissioner even before he was examined by the psychiatrist. Also, since it was a fire department doctor, Mr. Gillen felt that the commissioner would have some influence in the prognosis of his examination. Mr. Gillen's attorney stated "Your getting your money what more do you want." Mr. Gillen replied, "There is far more important things than money, like truth and justice." Because Mr. Gillen refused the hearings suggestions he was suspended from the Boston Fire Department for six months.

Mr. Gillen took the commissioner and the city of Boston to court. The marking slip stated that Mr. Gillen was to appear before the court at 9:00 a.m., which he was.

The judge said "Oh, three lawyers representing the city of Boston were here at 8:30 a.m. They stated that your court paper were incorrect so I threw out the case."

"But the marking slip stated to be here at 9:00 a.m." retorted Mr. Gillen.

The judge answered "Get yourself a lawyer." Mr. Gillen was approached in the

courthouse by a lawyer by the name of Clouney. Mr. Clouney accepted to represent Mr. Gillen. During five years of billing Mr. Gillen, he never allowed Mr. Gillen to appear in court to witness his trial. Mr. Gillen's case was finally heard in the Massachusetts Supreme Court where three judges unanimously denied his petition.

The Federal courts did the same, now Mr. Gillen is petitioning the Supreme Court of the United States of America in order to ensure the safety of all citizens and for truth and justice for himself.

As stated in the Lower Courts, Mr. Gillen is seeking just compensation. He is asking for two million dollars for his son, Hugh P. Gillen whom at the time of the commissioner decision to suspended Mr. Gillen in 1972 was accepted to Northeastern University and was preparing to attend college for a degree in Civil Engineering. Hugh P. Gillen told his father "You have not job, how can I go to college?" His son had to abandon his aspirations.

Mr. Gillen is also asking to be awarded two million dollars for his ordeal over the past 24 years. Mr. Gillen would also like to be instated as a lieutenant in the Boston Fire Department retroactive from September 21, 1972 till retirement at age 65 (compulsory) with all his benefits including his pension.

Henceforth, in order to eliminate briberies, etc. automatic enlistments and promotions as they occur, no waiting for 20 or 30 vacancies before promotions.

Also no details where strong fire companies detail men to work at weaker companies. This overtime should be given to off-duty firefighters, thereby having full strength fire companies at all times.

Also in addressing members of the fire department say Brother Firefighter, Brother Lieutenant, Brother Captain, etc. Thereby promoting brotherhood with the help of God and God willing.

Also the last but not the least, the abolishment of the hair rule.

President Reagan was against this rule. Having longer hair does not interfere with gas masks and it promotes the word of God which states, the children of God are "Born not of blood or the will of the flesh or the will of man but of God and we saw His Glory (Jesus). The Glory as it were of the Father full of grace and truth.

C. Lower Court Decisions

All courts from State to Federal denied the petitioner.

CONCLUSIONS

There are several compelling reasons why this court should grant Mr. Gillen's petition for Writ of Certiorari. First and foremost, the United States Government maintains a strong, well equipped military, it is no less important that each city have a well equipped and manned fire department.

I believe it is the duty of the highest court in the land to make mandatory laws concerning all fire departments in all cities to follow. The impartial findings of the National Fire Underwriters Recommendations that are accepted in all fire departments but these guidelines are not followed or carried out because of lax and unenforced laws.

Today, now is the acceptabie time for the Supreme Court to act by enforcing mandatory laws that will, for the utmost safety of its citizens, enforce full strength fire departments in the entire United States of America at all times. Yes, yes.

(2)

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OPINIONS BELOW

The opinion of the Court of Appeals for the First District date May 9, 1996, is reprinted in the appendix hereto, p. 2 and 3

United States District Court

District of Massachusetts

Hugh J. Gillen
V
City of Boston

JUDGMENT IN A CIVIL CASE

Case Number 94-12-083-RCL

☐ **Jury Verdict**. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

☐ Decision by Court. In accordance with the allowance of the defendant's motion to dismiss on December 15, 1995;
IT IS ORDERED AND ADJUDGED

Judgment for the Defendant, City of Boston.

December 15, 1995
Date

Robert J. Smith, Jr.
Clerk

(By) Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 96-1248

Hugh J. Gillen,
Plaintiff, Appellant,

v.

City of Boston,
Defendant, Appellee.

Before

Boudin, Circuit Judge,
Campbell, Senior Circuit Judge,
and Stahl, Circuit Judge.

ORDER OF COURT

Entered May 9, 1996

We have received the appellant's response to our show cause order of March 19, 1996. For the reasons stated therein, we do not have jurisdiction to consider this appeal.

Appeal dismissed.

By the Court:
William H Ne
Clerk.

(cc: Mr. Gillen, Ms. Haley)